

Newsletter

Scope Changes as of September 1, 2021: SB993 of the 87th Regular Legislative Session.

Effective September 1, 2021, SB993 of the 87th Regular Legislative Session authorized the expansion of therapeutic optometrists' use of medications to treat eye health conditions and authorizes Optometric Glaucoma Specialists to independently, medically, manage glaucoma patients. It is important to note that therapeutic optometrists may not prescribe more than one three-day supply of any medication classified as a controlled substance on Schedules III, IV or V of 21 U.S.C. Section 812. Licensees are always held to the same standard of care applicable to an ophthalmologist.

SB993 also created a new complaint process for all complaints filed with the Board related to the treatment of glaucoma. Specifically, each jurisdictional complaint received related to the treatment of glaucoma shall be reviewed by an expert panel that includes ophthalmologists approved by the Texas Medical Board (TMB) and optometrists approved by the TOB. The TOB will also be sharing information with the TMB related to the outcome of the complaints.

The TOB Rules Committee is currently working on new rules related to SB993.

Partnership with CE Broker

The Texas Optometry Board has partnered with CE Broker for continuing education reporting, tracking, and auditing beginning in January 2022. Pursuant to new Board Rule 275.3, all licensees are required to use CE Broker after January 1, 2022 for renewal compliance related to continuing education.

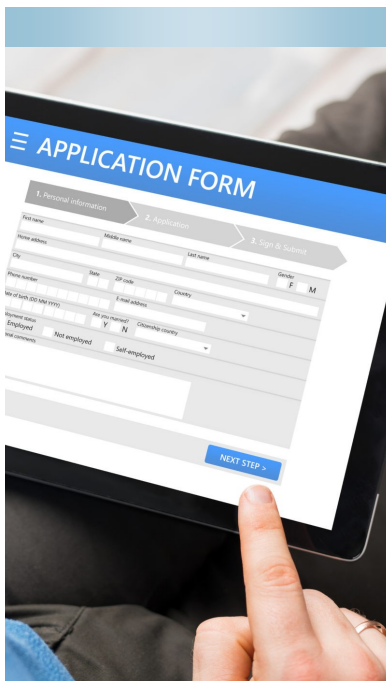
CE Broker provides a free basic account that will give you access to your course history, comprehensive course search and compliance status for renewal. Licensees will also have access to CE Broker's support center which is accessible 7:00 a.m.—7:00 p.m., Monday through Friday. Customer service is also available via email and through a live chat option.

A licensee may elect to upgrade the basic account for a small fee but it is not required. Upgraded accounts give you more CE Broker features. You can find more information about CE Broker on the Board's website.



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Licensing Update: Exam Schedule & Online Applications

EXAMS

The TOB is now offering the Jurisprudence Exam every month. Previously, the exam was only available six times per year. Increasing exam availability will hopefully decrease licensure times. Exam deadlines still apply. All materials must be submitted and approved by the first day of the month prior to the exam.

ONLINE APPLICATIONS

As of July 2021, applicants may now apply for a Texas license online or via paper. Online applications are available for initial licenses, optometric glaucoma specialist certifications and requests for licensure without examination. Detailed application instructions are available on the Board website.

“Dr. Gutierrez noted that the continuous theme throughout the meeting and in the future months will be modernization.” - Board Meeting

BOARD MEETINGS

Since September 1, 2020, the Board has held five regular board meetings and one emergency board meeting.

Board meeting agendas and meeting minutes can be found on our website under “Board Meetings”.

The Board also holds committee meetings regularly on the day before each board meeting.

Upcoming Board Meetings:

- October 6, 2021
- November 19, 2021

Rules Update

Since the August 2020 Newsletter, the Board adopted the following rules:

22 TAC 279.16 Telehealth Services. This amendment allows the remote treatment and examination of patients as authorized by amendments to Texas Occupations Code Chapter 111.

22 TAC 273.16 Licensee Compliance With Board Investigations and Inspections. This new rule requires compliance with board investigations and board inspections. Specifically, it requires a licensee to respond within 14-days of any Board request.

22 TAC 275.2 Required Education. Amendments were adopted to clarify continuing education requirements for the biennial renewal process.

22 TAC 271.2 Applications. Amendments were adopted to clarify the Board’s application process regarding deadlines for the examination.

22 TAC 275.3 Continuing Education Tracking System. This new rule requires licensees to report to a digital platform for continuing education compliance beginning in January 2022.



Texas Capitol.

Continuing Education Requirements Needed Pursuant to Other State Law.

Board Rule 275.2 Required Education outlines continuing education requirements for all licensees. Specifically, 275.2(g) details the requirements needed that are mandated by other state law. The requirements in 275.2(g) are outlined below:

- **Two-hour controlled substances prescribing course.** Section 481.07635 of the Health and Safety Code requires each active Optometric Glaucoma Specialist licensed prior to September 1, 2020, to complete two hours of continuing education related to approved procedures of prescribing and monitoring controlled substances on or before September 1, 2021. Each active Optometric Glaucoma Specialist licensed after September 1, 2020, must complete the continuing education required by this subsection within one year of the initial Optometric Glaucoma Specialist certification date. This is a one-time education requirement.
- **One-hour opioid prescribing course.** All active Optometric Glaucoma Specialists who prescribe or dispense opioids shall complete an approved opioid course each year (two hours for a biennial renewal) pursuant to §481.0764 of the Health and Safety Code.
- **One-hour human trafficking course.** All active licensees who provide direct patient care shall complete one-hour of human trafficking continuing education prior to each biennial renewal as required by §116.003 of the Occupations Code.

FRAUD ALERT!

In early May 2020, AG Paxton warned “*all Texans should be aware of unsolicited calls and emails from scammers impersonating leaders in their government.*”

As of September 2021, we are still experiencing this issue.

TOB urges you to be on the lookout for unexpected scam phone calls from anyone claiming to be from our office.

TOB staff will NEVER:

- Threaten to bring in local police, FBI, immigration officers or other law-enforcement to have you arrested for not paying.
- Pressure you to make a payment.
- Ask for personal information not directly related to an agency transaction.



Reappointment of Board Members

Governor Greg Abbott reappointed Ron Hopping, O.D., Carey Patrick, O.D., and Rene Pena to the Texas Optometry Board for terms set to expire on January 31, 2027.

Ron Hopping, O.D., MPH, of Friendswood is a Managing Partner with Hopping Eye Associates, LLP, where he serves as a Therapeutic Optometrist and Optometric Glaucoma Specialist.

Carey Patrick, O.D. of Allen is the President of Fairview Eye care, P.A., where she serves as a Therapeutic Optometrist and Optometric Glaucoma Specialist.

Rene Pena of El Paso is an Audit Partner and Firm Managing Partner at Pena Pension Board.

Other Board Members:

Mario Gutierrez, O.D. , Chair

Judy Chambers, Secretary

Bill Thompson, O.D.

John Cornett, O.D.

Meghan Schutte, O.D.

Ty Sheehan

Practice Pointers—Telehealth Services.

Board Rule 279.16 Telehealth Services applies to all Texas licensed optometrists. The Board adopted revisions to this rule which were officially effective on August 30, 2021.

Throughout the rule revision process the Board received questions about whether an initial patient exam could be conducted via telehealth. The Board opined that the standard of care must be met pursuant to §351.353 of the Texas Optometry Act regardless of whether it is an in-person service or a telehealth service.

Furthermore, telehealth services are subject to the same standard of care that would apply to the provision of the same health care service or procedures in an in-person setting.

All licensees providing telehealth services must provide notice of how complaints may be filed with the Board on the licensee's website or with informed consent materials provided to patients prior to rendering telehealth services.

Continuing Education Providers—Approval Process Update.

At its July 30, 2021 meeting, the Board voted unanimously to propose revisions to Board Rule 275.1, General Requirements, which outlines the approval process for continuing education providers and courses. The revisions to the rule may be adopted as final at the November meeting.

The proposed revisions to Board Rule 275.1, General Requirements, states that the Board has determined the following providers who offer courses directly related to optometry may satisfy criteria for acceptable continuing education hours and may be given automatic approval: AC-OE, AOA, AAO, COPE, ABO, and ACCME. Courses in professional responsibility given by a board accredited in-state college or school of optometry may be given automatic approval if the course is made available as a live course (in-state and online); and, includes the study of professional ethics, Texas Optometry Act and pain management, or drug abuse professionals. However, please note, the Board reserves the right to audit and/or reject any of the courses.

For continuing education providers seeking to become an approved provider, who are not given automatic approval, application to the Board will still be required. Please note, providers must submit the required application and materials for consideration at least 60-days ahead of the course date. Failure to submit the required materials will result an automatic rejection.

As the Board moves forward with CE Broker in 2022, providers may be required to submit applications or information through the digital platform. More information will be circulated regarding this process soon.

License Renewals: Odd Number Licensees Expire 12/31/21.

The renewal season will open early this year on **Monday, October 18, 2021**. Email notices will be sent to all ODD number licensees. As always, please submit continuing education **EARLY** to ceinfo@tob.texas.gov.

Note, after this renewal cycle, all licenses will be on a two-year renewal cycle. The renewal fee increases with a two-year renewal to cover the two year period. A total of 32 hours is required for two-year licenses. This includes 24-hours of diagnostic/therapeutic, two hours of Professional Responsibility, one hour of human trafficking and two hours for the opioid requirement (if applicable).



Office Inspections

Beginning in 2020, due to the COVID-19 pandemic and through 2021, the Board has been conducting inspections remotely. Inspections are specifically authorized by Optometry Act Section 351.1575.

Remote inspections have allowed the Board to inspect offices in areas other than large metropolitan cities such as Dallas, Houston, San Antonio or Austin. Remote inspections in 2021 were conducted in cities like Harlingen, Port Arthur, Odessa and Amarillo.

Moving forward, the Board may elect to perform inspections using a hybrid model. A hybrid inspection model means that the Board Investigator may conduct an onsite inspection or may perform a remote inspection. The inspections will still be done annually during the Spring and Summer but the

location of the office being inspected may determine the type of inspection. Note, the Board always reserves the right, at anytime, to turn a remote inspection into an onsite inspection.

As a reminder, if you receive a notice of a remote inspection or onsite inspection, make sure to cooperate with the request within 14 business days as required by Board Rule 273.16 Licensee Compliance With Board Investigations and Inspections.

For questions about the board inspection process, contact Board Investigator,

Dennis Riggins

dennis.riggins@tob.texas.gov.



Disciplinary Authority

Pursuant to 351.501 Denial of License and Disciplinary Action by Board, the Board may refuse to issue a license to an applicant, revoke or suspend a license, place on probation a person whose license has been suspended, impose a fine, impose a stipulation, limitation, or condition relating to continued practice, including conditioning continued practice or counseling or additional education, or reprimand a license holder.

Public disciplinary actions such as an Order of Suspension or an Agreed Settlement Order are permanent records.

Disciplinary Actions.

Included are a few examples of the disciplinary actions the Board took this past year

Temporary Suspension

Pursuant to Section 351.5015, the Board held an emergency disciplinary panel hearing and considered allegations involving a licensee's fitness for continued practice. The panel temporarily suspended the license for a period of time based on a continuing threat to public welfare.

Agreed Settlement Order

A licensee entered into an Agreed Settlement Order with the Board because the investigation found that the licensee fell below the minimum standard of care in the treatment of a patient. The licensee failed to appropriately conduct an initial exam of a patient as defined in Section 351.353 of the Texas Optometry Act.

The licensee agreed to pay a \$2,000 fine, undergo a records review and complete four hours of continuing education in retinal health and record keeping in addition to the continuing education hours required for renewal of license.

Agreed Settlement Order

A licensee entered into an Agreed Settlement Order with the Board because the investigation found that the licensee fell below the minimum standard of care in the treatment of an established pa-

tient. The licensee failed to diagnose an abnormal condition in violation of Section 351.355 Determining and Measuring Vision and Section 351.360 Professional Standard of Therapeutic Optometrist.

The licensee agreed to pay an administrative fine in the amount of \$1,500, complete twelve hours of continuing education in retina health and/or internal eye health in addition to the continuing education required for renewal of license. Additionally, the licensee agreed to shadow a retina specialist for 32 hours.

Administrative Penalties.

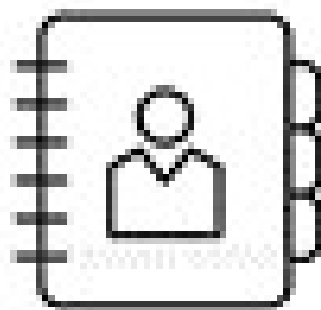
Administrative penalties were issued for failing to report criminal histories on initial and renewal applications. Administrative penalties were \$300.

Administrative penalties were issued for failing to correctly identify as an optometrist on prescriptions, business cards and door signage. Administrative penalties ranged between \$300—\$500.

Update Your Contact Information.

As you may have noticed throughout the past year, the Board is now sending a variety of communications via E-mail. For instance, the Board now sends renewal notices, quarterly updates and other reminders via E-mail. The Board still sends some communication via U.S. postal mail such as notices of violation and investigation notices.

Please make sure to update your contact information including your email address. If you need to update your information, please contact info@tob.texas.gov.



CONTACT INFORMATION

We Are Moving in 2022!

The Board office is relocating in 2022. All agencies located at the current location, 333 Guadalupe, Austin, Texas, are relocating to the Capitol Complex, a new state office complex. Since the building is new and still under construction, the exact moving date is not yet known. However, the Board anticipates moving in late Spring or early Summer of 2022.

The new office is located at 1801 Congress Avenue, Austin, Texas. Our office space will be on the 9th floor. The Board has no control over the timing of the actual move but we are working with the Texas Facilities Commission to find out more information as we get closer to the date.

We are aware that the moving date may fall within graduation season and/or peak licens-

ing season. Therefore, we promise to update you with information as soon as we have it.

Please be advised that the relocation of our office may cause downtime for operations. We will do our best to keep operations flowing but mail, or other services may be directly impacted beyond our control.

Remember to check our website for updates and as stated above, update your email address, so that we may alert you to updates related to the move.



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CONTACT INFORMATION

Kelly Parker,
Executive Director
kelly.parker@tob.texas.gov
512-305-8502

Licensing:
Licensinginfo@tob.texas.gov

Continuing Education:
CEinfo@tob.texas.gov

Investigations:
Dennis.Riggins@tob.texas.gov

General Information:
info@tob.texas.gov

Professional Recovery Network

The TOB has contracted with the Professional Recovery Network to offer impaired optometrists and optometry students a pathway to confidential recovery as long as treatment progresses in a satisfactory manner. Impairment includes substance abuse as well as mental health issues.

Colleagues of impaired optometrists may also use this service to assist in finding help for the impaired professional.

Information is available on the Board's website or the impaired professional or student may call the Program directly at 1-800-727-5152.

